

REMARKS

Applicants propose to amend claim 85 so that it is consistent with claims 69 and 77 (as noted by the Examiner in her Interview Summary). Support for the amendment can be found at least at paragraph [0102] where it is described that "block model 601 ... [are] is provided as input parameters".

The proposed amendment is needed to make clear the system and apparatus described in the specification and, in particular, that the block model may be provided to the data processing system that is used to process the blocks of the block model. For example, it is contemplated that the initial block model may have been calculated at a time different than the time at which the processing of the blocks of the block model occurs and may have been calculated on a different data processing system.

The proposed amendment does not require an additional search or examination and is patentable. As noted by the Examiner in her statement of reasons for allowance of claim 69, she indicates that it is the processing the blocks, forming a cone, and defining clumps of material that define the invention over the prior art. Thus, the proposed amendment does not affect the reasons for patentability. In addition, an additional search or examination is not required because, prior to the Examiner's amendment, the claim included at least forming a block model using the same or a different data processing system.

The amendment was not presented earlier because the potential scope of the amendment was not appreciated by the Applicants until the actual wording was set forth in

print in the Notice of Allowance and such was pointed out by the Examiner in her phone call of January 27, 2009. Moreover, it was not until the *In re Bilski* decision was rendered that the need for the Examiner's amendment was required.

In view of the above, Applicants believe that the proposed amendment is proper and respectfully request entry. If, for any reason, the Examiner needs to contact the undersigned attorney, I can be reached at (312) 321-4246.

Respectfully submitted,

/G. Peter Nichols/
G. Peter Nichols
Reg. No. 34,401
Attorney for Applicants

BRINKS HOFER
GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610
(312) 321-4200